

STATE OF MICHIGAN JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	ORDER FOLLOWING PERMANENCY PLANNING HEARING, PRE-TERMINATION (CHILD PROTECTIVE PROCEEDINGS), PAGE 1 ORDER ____ OF ____	CASE NO. PETITION NO.
Court address		Court telephone no.

1. In the matter of name(s), alias(es), DOB

2. Date of hearing: _____ Judge/Referee: _____ Bar no.

3. Removal date: _____ (specify for each child if different)

Last permanency planning hearing date: _____ (specify for each child if different)

4. The above-named child(ren) is/are in foster care in the temporary custody of the court.

5. Notice of hearing for permanency planning was served as required by law.

THE COURT FINDS:

6. The lawyer-guardian ad litem ☐ has ☐ has not complied with the requirements of MCL 712A.17d.

7. The court has considered the case service plan and other evidence presented. The findings below are specific to this case and are based upon this hearing, and ☐ the following report(s): _____
identify report(s) and date(s) of report(s)

Specific conditions reviewed on the record as required by MCL 712A.19(6) were

- a. compliance with the case service plan with respect to services provided or offered to each child and his or her parent(s), guardian, or legal custodian and whether the parent(s), guardian, or legal custodian complied with and benefited from those services.
- b. compliance with the case service plan with respect to parenting time with each child and whether parenting time did not occur or was infrequent and the reasons why.
- c. the extent to which the parent(s), guardian, or legal custodian complied with each provision of the case service plan, prior court orders, and any agreement between the parent(s), guardian, or legal custodian and the agency.
- d. likely harm to each child if the child continued to be separated from his or her parent(s), guardian, or legal custodian.
- e. likely harm to each child if the child was returned to his or her parent(s), guardian, or legal custodian.

8. Progress toward alleviating or mitigating the conditions that caused the child(ren) to be placed or to remain in temporary foster care ☐ was ☐ was not made in accordance with MCL 712A.19(7).

9. The child(ren)'s continued placement ☐ is necessary and appropriate and is meeting the child(ren)'s needs.
☐ is no longer necessary or appropriate.

10. Returning the child(ren) to the parent(s), guardian, or legal custodian ☐ would ☐ would not cause a substantial risk of harm to the child(ren)'s life, physical health, or mental well-being.

11. The child(ren) should not be returned to the parent(s), guardian, or legal custodian. The agency ☐ should ☐ should not initiate proceedings to terminate the parental rights to the child(ren).

(SEE SECOND PAGE)

Do not write below this line - For court use only

STATE OF MICHIGAN JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	ORDER FOLLOWING PERMANENCY PLANNING HEARING, PRE-TERMINATION (CHILD PROTECTIVE PROCEEDINGS), PAGE 2 ORDER ____ OF ____	CASE NO. PETITION NO.
Court address		Court telephone no.

In the matter of

- I** 12. ☐ a. Reasonable efforts ☐ were ☐ were not made to preserve and reunify the family to make it possible for the child(ren) to safely return to the child(ren)'s home. (specify reasonable efforts below, and if applicable, the reasons for return)
- ☐ 1) Reasonable efforts for reunification should be continued.
- ☐ 2) Those reasonable efforts were successful and the child(ren) should be released to

 Name of parent, guardian, or legal custodian

The reasonable efforts include: (specify)

- ☐ b. Reasonable efforts to preserve and reunify the family to make it possible for the child(ren) to safely return to the child(ren)'s home are not required based on a prior order.

- J** 13. Reasonable efforts ☐ have ☐ have not been made to finalize the court-approved permanency plan of
- ☐ a. return to the parent for the child(ren) named _____.
- ☐ b. legal guardianship for the child(ren) named _____.
- ☐ c. adoption for the child(ren) named _____.
- ☐ d. placement with a fit and willing relative for the child(ren) named _____.
- ☐ e. placement in another planned permanent living arrangement, identified as _____.
- _____, due to the compelling reasons that
 (provide the name of each child and then specify the compelling reasons for another planned permanent living arrangement for each child, as appropriate, by entering the language that corresponds to the number[s] from the list on page 4)

The reasonable efforts made to finalize the court-approved permanency plan identified above include:
 (specify the permanency plan for each child and the reasonable efforts made toward finalizing that plan)

- ☐ Since adoption is the court-approved permanency plan, the Department of Human Services shall be ordered to initiate proceedings to terminate parental rights.

- K** ☐ 14. Parenting time with _____, even if supervised, may be harmful to the child(ren).

(SEE THIRD PAGE)

STATE OF MICHIGAN JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	ORDER FOLLOWING PERMANENCY PLANNING HEARING, PRE-TERMINATION (CHILD PROTECTIVE PROCEEDINGS), PAGE 3 ORDER ____ OF ____	CASE NO. PETITION NO.
Court address		Court telephone no.

In the matter of

IT IS ORDERED:
☐ 15. Jurisdiction of this court is terminated and the child(ren) is/are released to _____.

☐ 16. The Department of Human Services shall initiate proceedings to terminate parental rights to the child(ren) no later than 42 days from the date of this hearing.

☐ 17. The child(ren) is/are continued in the temporary custody of this court and
☐ a. remain in placement with the Department of Human Services for care and supervision.

☐ b. are released to _____
 Name(s) of parent(s), guardian, or legal custodian

☐ 18. The parent(s)/guardian/legal custodian shall comply with and benefit from the case service plan. ☐ In addition,

☐ 19. Parenting time of _____ is
☐ supervised by the Department of Human Services and/or its designee.
☐ unsupervised at the discretion of the Department of Human Services.
☐ suspended while psychological evaluation or counseling is conducted, or until further order of the court.

☐ 20. Parenting time of _____ is
☐ supervised by the Department of Human Services and/or its designee.
☐ unsupervised at the discretion of the Department of Human Services.
☐ suspended while psychological evaluation or counseling is conducted, or until further order of the court.

☐ 21. Parenting time of _____ is
☐ supervised by the Department of Human Services and/or its designee.
☐ unsupervised at the discretion of the Department of Human Services.
☐ suspended while psychological evaluation or counseling is conducted, or until further order of the court.

☐ 22. Other: (include reimbursement provisions as required by MCL 712A.18[2], attach separate sheet if necessary)

(SEE FOURTH PAGE)

STATE OF MICHIGAN JUDICIAL CIRCUIT - FAMILY DIVISION COUNTY	ORDER FOLLOWING PERMANENCY PLANNING HEARING, PRE-TERMINATION (CHILD PROTECTIVE PROCEEDINGS), PAGE 4 ORDER ____ OF ____	CASE NO. PETITION NO.
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In the matter of

P

23. Prior orders remain in effect except as modified by this order.

Q
☐ 24. Review hearings shall be held as follows:

(NOTE: The review hearing shall not be delayed beyond the number of days required regardless of whether a petition to terminate parental rights or another matter is pending. MCL 712A.19a provides that the permanency planning hearing shall not be delayed beyond 12 months from the date of removal of the child and every 12 months thereafter.)

☐ dispositional review hearing _____ ☐ permanency planning hearing _____

The supervising agency shall provide documentation of progress relating to all aspects of the last court-ordered treatment plan, including copies of evaluations and therapy reports and verification of parenting time, not later than 5 business days before the scheduled hearing.

 25. ☐ Notice of the next hearing has been provided as required by law. ☐ Notice of the next hearing shall be provided.

Date

Judge

The following list are examples of compelling reasons for a permanency plan other than return to parent, legal guardianship, placement with a fit and willing relative, or adoption.

1. No relative has been identified who is appropriate or available to assume the permanent custody of the child.
2. The current caregiver is not an adoptive resource.
3. The child has a significant attachment to the parent(s), and it is in the child's best interests that it be preserved through parenting time and contact.
4. Reasonable efforts to recruit an adoptive home have been unsuccessful.
5. The child does not want to be adopted and is of an age where due consideration must be given to his/her wishes.
6. It is contrary to the child's best interests to break the child's attachment to the current caregivers.
7. The current caregiver is committed to providing a permanent placement for the child.
8. The placement allows the siblings to remain together.
9. The child's special needs can best be met in this placement.
10. The child wants to remain in the current placement, which is only available as foster care.
11. The placement is preparing the child for transition into independent living (specify the services being provided to the child to assist with transition such as referral to an independent living skills program, enrollment in a vocational program, referral for a mentor, continued out-of-home placement in foster care beyond age 18 to allow the child to complete secondary school, placement in a resource that provides on-site training for independent living, and other similar services).
12. The child comes under the Indian Child Welfare Act, and the child's tribe recommends permanent placement in long-term foster care.
13. Other (specify in the findings in item 13e).

Instructions for Using JC 64

This form is designed to be used when the court holds a permanency planning hearing **before** parental rights are terminated.

- A** 2-3. The date of hearing and removal date are key elements because MCL 712A.19a requires that the court “conduct a permanency planning hearing within 12 months after the child was removed from his or her home.” Further, subsequent PPHs are required within 12 months of the previous hearing, so the removal date is key for the first PPH, and subsequent PPHs are scheduled from the first PPH date. The requirement for a court to hold a PPH within 12 months after removal exists regardless whether parental rights have been terminated.

This provision also includes a line for the court to indicate the date the last PPH was held, and prompts the court to make note of those dates for each child. For cases that involve separate children, this is the court’s opportunity to establish the same PPH date so that subsequent PPHs for the same children can be accomplished at the same hearing. Even if one or more of the children are not scheduled for a PPH yet, this provision allows the court to include that child to synchronize subsequent PPHs with those for other children from the same family.

- B** 5. Notice for PPHs is governed by MCL 712A.19a, which requires written notice of the hearing not less than 14 days before the hearing is scheduled. See also MCR 3.921(B)(3) and MCR 3.920(E), which allows for written waiver of notice.

- C** 6. MCL 712A.17d requires the lawyer-guardian ad litem (L-GAL) to meet with or observe the child before a permanency planning hearing. This new provision requires the court to determine whether such contact or observation occurred. L-GALs are required to meet with or observe the child in the following instances:
- a. Before the pretrial hearing
 - b. Before the initial disposition, if held more than 91 days after the petition has been authorized
 - c. Before a dispositional review hearing
 - d. Before a permanency planning hearing
 - e. Before a post-termination review hearing
 - f. At least once during the pendency of a supplemental petition
 - g. At other time as ordered by the court

Adjourned or continued hearings do not require additional visits unless ordered by the court, and the court may also order alternative means of contact with the child if good cause is shown on the record to do so.

- D** 7. When making determinations at a PPH, the statute requires the court to consider any written or oral information concerning the child. This provision allows the court to identify what reports the court relied on in reaching its findings. In addition, 45 CFR 1356.21(d) requires a judicial determination that reasonable efforts have been made to finalize a permanency plan be explicitly documented and made on a case-by-case basis.

Instructions for Using JC 64 (continued)

MCR 3.976(E) states that the court must return the child home after a PPH unless it finds that the return would cause a substantial risk of harm to the life, the physical health, or the mental well-being of the child. “Failure to substantially comply with the case service plan is evidence that the return of the child to the parent may cause a substantial risk of harm to the child’s life, physical health, or mental well-being.” Thus, in deciding whether to return the child home, the court must consider the case service plan.

- E** 8. This item comes from MCL 712A.19(7) and MCR 3.975, which require the court to decide the extent of the progress made toward alleviating or mitigating conditions that caused the child to be, and to remain, in foster care as part of a review. There is a check box because it would not be applicable to situations in which the child is not removed from the home.
- F** 9. This language is drawn from MCL 712A.19(8), which requires the court to “determine the continuing necessity and appropriateness of the child’s placement.”
- G** 10. This provision allows the court to make a finding regarding whether returning the child to the parent would or would not cause a substantial risk of harm to the child’s life, physical health, or mental well-being. MCL 712A.19(6); MCR 3.976(E).
- H** 11. Pursuant to MCR 3.976(E)(2), if the court determines at a PPH that the child should not be returned home, the court must order the agency to initiate proceedings to terminate parental rights. However, the court may choose not to order the agency to initiate termination proceedings if the agency demonstrates to the court and the court finds it is not in the child’s best interests to do so.
- I** 12. As part of the order of disposition (which may have been a previous hearing), courts are required to consider efforts to be made by the child’s parent to enable the child to return to his or her home, and efforts to be made by the agency to return the child to his or her home (MCL 712A.18f[3]). Item 12 on this form tracks that progress by allowing the court to find that reasonable efforts were or were not made to preserve and reunify the family to allow the child(ren) to safely return home, and what those reasonable efforts were. In addition, MCL 712A.19a(3) requires that, in the event the court holds a permanency planning hearing, it shall review the status of the child and the progress being made toward the child’s return home. Making these findings in this item will allow the court to fulfill that requirement.

Further, federal regulations require that the state “make reasonable efforts to . . . effect the safe reunification of the child and family In determining reasonable efforts to be made with respect to a child and in making such reasonable efforts, the child’s health and safety must be the State’s paramount concern.” 45 CFR 1356.21(c).

- J** 13. These specific findings are required for Title IV-E eligibility. 45 CFR 1356.21(b)(2)(i) states that “[t]he State agency must obtain a judicial determination that it has made reasonable efforts to finalize the permanency plan that is in effect (whether the plan is reunification, adoption, legal guardianship, placement with a fit and willing relative, or placement in another planned permanent living arrangement)

Instructions for Using JC 64 (continued)

within twelve months of the date the child is considered to have entered foster care . . . and at least once every twelve months thereafter while the child is in foster care.” Not only must the court find that reasonable efforts have been made to finalize the permanency plan, but it must also explicitly document that determination on a case-by-case basis. 45 CFR 1356.21(d). In addition, MCR 3.976 requires that the court determine whether the agency has made reasonable efforts to finalize the permanency plan, and identify what that plan is.

If the court finds as part of a permanency planning hearing that placement in another planned permanent living arrangement is the appropriate permanency plan for the child (as opposed to adoption, reunification, legal guardianship, or placement with a fit and willing relative), federal regulations require that the state must document to the court **the compelling reasons** for the alternate plan. In other words, the federal regulations encourage any other permanency plan before “another planned permanent living arrangement.”

The federal regulations give some examples of what can constitute compelling reasons to support another planned permanent living arrangement as the permanency plan for a child. The examples cited in the federal regulations include: “i) the case of an older teen who specifically requests that emancipation be established as her/her permanency plan; ii) the case of a parent and child who have a significant bond but the parent is unable to care for the child because of an emotional or physical disability and the child’s foster parents have committed to raising him/her to the age of majority and to facilitate visitation with the disabled parent; or, iii) the Tribe has identified another planned permanent living arrangement for the child.” 45 CFR 1356.21(h)(3). A more extensive list of compelling reasons is listed at the end of this form.

- K** 14. MCL 712A.13a requires this finding if a court wants to order a psychological evaluation or counseling for the child. That statute also allows a court to suspend parenting time while the evaluation or counseling continues.
- L** 16. This provision is counterpart to item 11 above, which requires the court to order the agency (DHS) to initiate proceedings to terminate parental rights within 42 days from the PPH at which it determines that the child should not be returned home.
- M** 17. This provision includes options for placement with DHS for care and supervision (required for Title IV-E eligibility), or for a child to remain home or be returned home. The court may want to include in the order that children who remain home or are returned home are under the supervision of DHS and with optional terms and conditions.
- N** 18. This provision requires the parent, legal custodian, or guardian to comply with, and benefit from, the case service plan. MCR 3.975. This is not a finding normally required at a PPH.

NOTE: In a future revision, JC 64 may be combined with JC 19 so that it can be used for combined pre-termination permanency planning and dispositional review hearings, similar to the way JC 76 is use for combined post-termination permanency planning and review hearings.

Instructions for Using JC 64 (continued)

- O** 19-21. While MCL 712A.19b(4) and MCR 3.977(D) require that parenting time be suspended in cases in which a petition to terminate parental rights is filed, the court can order parenting time if the parent establishes, and the court determines, that the parenting time will not harm the child. If the parent cannot establish, or the court does not determine, that allowing parenting time will not harm the child, the statute requires parenting time to remain suspended until the termination petition is adjudicated or the issue is settled.

Three separate parenting time provisions are included to accommodate different parenting time schedules, but if parenting time is the same for all parties, only one item need be filled out.

- P** 23. Typically, specific provisions of an order remain in effect if this language is present (that “prior orders remain in effect except as modified by this order”). However, this has been an issue with DHS, which has refused to authorize payment unless the most recently-entered court order requiring a particular service continues to reflect that court’s ordering of that service. As a best practice, and to avoid the issue of whether the court is continuing to order a particular service DHS is responsible for, a court should **specifically order, in each consecutive order, any service (such as drug testing), supervision (for parenting time), or placement that requires financial funding by DHS. In addition, as a best practice, courts should indicate in each order that reasonable efforts to prevent removal were made in a prior order (whether those efforts are required or not) to clarify that those findings have been made, which then allows for funding for those children eligible under Title IV-E.**

- Q** 24. The end of a hearing is an excellent time for the court to plan for subsequent hearings. This new provision offers the court the opportunity to lay out subsequent hearings. MCL 712A.19(3) requires an initial review hearing be held not more than 182 days after the child’s removal (for a child in foster care) or the filing of a petition (for a child who remains in his or her home). After the first review hearing, subsequent hearings are required every 91 days for the first year. After the first year, review hearings are required not later than 182 days from the prior review hearing.

There is space on this form for a dispositional review hearing and a permanency planning hearing, which can be combined. This scheduling is designed to make it easier for courts to meet the statutory and regulatory deadlines without scheduling additional hearings.

These provisions are designed to make notice easier for the courts and help keep the parties, parties’ counsel and the court on a schedule. If all parties are present at the review hearing, and the court selects a date for the next review hearing, the court would check the first box indicating that the parties present received notice of the next hearing. If a party is not present, separate notice is required.